

EXHIBIT “EE”

Greg Nyhoff Deposition Transcript

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF CALIFORNIA
3

4
5 NEFTALI MONTERROSA, et al.,)
6)
7 Plaintiffs,)
8)
9 v.) No. 2:20-cv-01563
10)
11 CITY OF VALLEJO, et al.)
12)
13 Defendants.)
14

15 DEPOSITION OF JEFF NYHOFF
16

17 10:00 a.m.
18 October 27, 2023
19

20 File #6280194
21
22
23
24

25 Reported By: Judy Robinson, CCR #2171

A P P E A R A N C E S

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I N D E X

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JEFF NYHOFF		
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1 BE IT REMEMBERED that the deposition upon oral
2 examination of JEFF NYHOFF was taken on October 27,
3 2023, at 10:00 a.m., at 125 South 309th Street,
4 Federal Way, Washington, 98003, before Judith A.
5 Robinson, CCR, Notary Public in and for the State of
6 Washington, residing at Federal Way, Washington.

7 Whereupon, the following proceedings were
8 had, to-wit:

9 REPORTER: And good morning, Counsel --
10 or excuse me -- good afternoon, Counsel.

11 Just before we proceed with the
12 deposition today, I just wanted to make you aware I
13 am a licensed reporter of 24 years in the state of
14 Washington and will need a joint agreement and
15 stipulation from all parties in order to swear in the
16 witness under the federal rules.

17 Can I please get your verbal agreement,
18 beginning with the noticing attorney?

19 MR. COYLE: John Coyle. I agree.

20 MS. KNIGHT: Agreed.

21 MR. GRAHAM: Agreed.

22 * * * * *

23 GREG NYHOFF

24 having been first duly sworn

25 on oath was examined

1 and testified as follows:

2 MR. COYLE: Thank you, Judy.

3 E X A M I N A T I O N

4 BY MR. COYLE:

5 Q. Good morning, Mr. Nyhoff. My name's
6 John Coyle. I'm from the law firm of McelDrew
7 Purtell, based out of Philadelphia. We're here today
8 for your deposition in the matter of The Estate of
9 Sean Monterrosa versus the City of Vallejo, et al.

10 Sir, have you ever had your deposition
11 taken before?

12 A. Yes.

13 Q. Okay. About how many times?

14 A. Three times.

15 Q. So you generally know how this is going
16 to go, but I just want to go through a series of
17 instructions make sure we're on the same page, make
18 sure this goes quickly and smoothly as possible, all
19 right?

20 A. Okay.

21 Q. First and foremost you're under oath
22 and we're on the record. So just like in a court of
23 law you're obligated to tell the truth; do you
24 understand that?

25 A. Yes.

1 Q. The court reporter's taking a written
2 record of everything we say here today, so I want you
3 to keep two things in mind. First, things like
4 uh-huh, un-uh, nods of the head, shrugs of the
5 shoulders, they don't translate well to a written
6 record, so you have to use things like yes or no.

7 A. Yes.

8 Q. Second, it's very much human nature to
9 anticipate my question, you want to jump in and
10 answer it, but that can lead to a really jumbled
11 record. So try to let me finish my question before
12 you begin your answer, and I'll likewise do the same,
13 okay?

14 A. Okay.

15 Q. Okay. The other thing is you have to
16 verbalize all your responses.

17 A. Okay. All right.

18 Q. Sir, we don't want you to guess about
19 anything here today. If you don't remember
20 something, you can't recall something, that's
21 perfectly acceptable. Say, I don't remember, or I
22 don't know.

23 A. Okay.

24 Q. If you're going to estimate something,
25 be it a timeframe, a distance, whatever that may be,

1 just let us know you're estimating; fair enough?

2 A. Yes.

3 Q. If you don't understand my question,
4 it's confusing or it's jumbled, or whatever it may
5 be, you just let me know and I'll do my best to
6 rephrase it. But if you do answer my question, I'm
7 going to assume you understood it, okay?

8 A. Okay.

9 Q. We're going to be jumping around
10 timeframes a little bit here today, and I think
11 that's kind of unavoidable. So if at any point in
12 time you're confused about the timeframe I'm talking
13 about, or anything like that, please let me know, all
14 right?

15 A. Okay.

16 Q. We should be here a couple hours, but
17 definitely not all day. So if at any point in time
18 you need to take a break to use the restroom, stretch
19 your legs, whatever it may be, just let me know and
20 we'll take a break. I only ask if a question's
21 pending you answer it before we take a break, al
22 right?

23 A. All right.

24 Q. All right.

25 I don't mean any offense, then, by this

1 question but I do ask everyone: Is there any reason,
2 physical or mental condition, prescription
3 medications, drugs, alcohol, anything like that, that
4 could impact your ability to be truthful and accurate
5 here today?

6 A. No.

7 Q. Okay, great. Let's get started then.
8 What's your full name for the record?

9 A. It's Gregory Allen Nyhoff.

10 Q. And your date of birth, sir?

11 A. January 15, 1960.

12 Q. And what's your highest level of
13 education you've completed?

14 A. Bachelor's Degree.

15 Q. And where did you get that?

16 A. Calvin college, Grand Rapids, Michigan.

17 Q. And what year?

18 A. 1982.

19 Q. Are you currently employed?

20 A. No.

21 Q. Are you retired?

22 A. No.

23 Q. When was the last time you held
24 employment?

25 A. With the city of Vallejo.

1 Q. When did that employment end?

2 A. July 2021.

3 Q. Why did that employment end?

4 A. The city and I mutually agreed to
5 separate.

6 Q. Was -- were there conversations held
7 with city officials about that decision?

8 MS. KNIGHT: I'll just object to the
9 extent it calls for attorney-client communications or
10 deliberative process privilege.

11 Greg, I don't want you to talk about
12 anything closed session. So if you can answer it
13 without closed session or attorney-client information
14 you can. I'm not sure that you can, though.

15 WITNESS: Can we just say that the city
16 council had to approve the separation agreement, so
17 indeed there was communications between the city and
18 I.

19 BY MR. COYLE:

20 Q. Did these communications stem from any
21 particular event or occurrence?

22 A. No. I -- I -- I left for medical
23 reasons.

24 Q. Okay. When did you first begin with
25 the city of Vallejo?

1 A. January 2018.

2 Q. And were -- was the entirety of your
3 time with Vallejo in the role as city manager?

4 A. Yes.

5 Q. Can you give me sort of a brief
6 synopsis of your employment history from when you
7 left Calvin College in '82 up until your time at
8 Vallejo?

9 A. Sure.

10 So I have over 30 years of experience
11 working with municipal government, over 25 of those
12 as a city manager.

13 I started back in the '80s with a
14 special district in Highlands Ranch, Colorado.

15 Moved to Michigan where I was a city
16 manager of a small city, Montague, Michigan.

17 Then I moved to Colorado where I was a
18 city manager of Fountain, Colorado.

19 Went to the city of Colorado Springs,
20 Colorado for about two years.

21 Then moved to California and was a city
22 manager of Modesto, California.

23 After that I was city manager in Oxnard,
24 California.

25 And then moving to Vallejo, California

1 became the city manager here.

2 Q. When you joined in Vallejo in
3 January 2018, was there any type of on-boarding
4 process to get you up to speed on issues that are
5 going on in the city?

6 A. None specifically. I -- I do a lot of
7 research myself prior to even applying for positions,
8 and so most of what I did in learning about the city
9 would have been my own research, and then once I got
10 here spent time with the department heads and
11 understand their operations.

12 Q. In your research leading up to joining
13 Vallejo, did you discover any issues or concerns
14 about anything going on with the police department?

15 MS. KNIGHT: Objection, vague and
16 ambiguous.

17 BY MR. COYLE:

18 Q. You can answer, sir.

19 A. Yeah. It was -- it appeared to me that
20 there had been a number of officer-involved shootings
21 that were of concern to the community, and basically
22 that was all. I think what I saw was the need to --
23 to really evaluate that and then build -- build some
24 community trust or community confidence in the police
25 department. It's one of those things that I could

1 see pretty clearly in the very beginning that there
2 was -- there was concern over that.

3 And also when it came to financing
4 through the bankruptcy that they had significant
5 reduction in staff and had not built that back up to
6 close to even what it was prior to bankruptcy.

7 Q. Were there any particular police
8 shootings that captured your attention prior to
9 joining Vallejo?

10 A. No.

11 Q. So just a general concern for the
12 number and the community's response?

13 A. Yes.

14 Q. When you began you mentioned there was
15 a need to evaluate that. What steps did you take to
16 evaluate, you know, this sort of concern regarding
17 police shootings?

18 A. I would say that specifically in
19 regards to the police shootings I didn't look at any
20 of those in any specificity. I was looking more
21 overarching and how do we move forward with the
22 police department and with the entire city. So I
23 really didn't have conversations that were specific
24 to officer-involved shootings.

25 Q. Mr. Nyhoff, what steps did you take to

1 review this for a more overarching approach?

2 A. Well, I think -- I think that I would
3 have to say it -- it occurs over time.

4 You know, first and foremost one of the
5 big issues that I saw quite quickly was the number of
6 claims against the city and the fact that the city
7 didn't have any risk management. The city attorney's
8 office had to double as risk management and do the --
9 do the duties of the city attorney's office. And so
10 those number of claims came to my attention as
11 something of concern to me.

12 I had -- the other part of that, then,
13 is to try to get to know some of the community and
14 find out their real -- their -- they might have me be
15 able to find out personally and hear them directly
16 talk to me about the police department and what their
17 concerns might be.

18 Q. What type of concerns were expressed to
19 you by community members when you first took on the
20 job?

21 A. There -- there was a lot of support for
22 Police Chief Bidou and the police department.

23 Q. There was a lot of support. Were there
24 any concerns?

25 A. Amongst those that I spoke with, I

1 would say not that I can recall with any specificity.

2 Q. You mentioned the city didn't have any
3 risk management department. What -- what did you
4 envision a proper risk management department's role
5 related to police claims?

6 A. So it would be for them not to evaluate
7 internal affairs' investigations but to really
8 monitor the number of claims we're seeing and are
9 there trends within those claims that -- that might
10 be causing us to need additional training to go into
11 the buildings and make sure that they're safe.

12 Not really to dig deep into policies and
13 procedures but to, you know, make sure we keep track
14 of those claims and see if we can see some type of
15 trend in where we're seeing is it a lack of training?
16 Is it a lack of policies? What is it that is causing
17 these number of claims? And then work through my
18 office and Chief's office to see what kind of
19 programs we can put together to move forward and
20 correct those if there needed to be corrected.

21 Q. So tracking sort of maybe a certain
22 officer has a large number of claims or there's a
23 certain type -- or a certain number of, say,
24 taser-type claims, those are the sort of trends you
25 would envision the risk management department

1 tracking?

2 A. Yeah, not necessarily that. I mean, I
3 wasn't looking for the officer involved, I was
4 looking for trends of what type: Is it use of force?
5 Is it traffic accidents? What might be -- is it, you
6 know, officer-involved shootings? What are the
7 trends we need to focus on here?

8 And, you know, ultimately I saw it as a
9 very large expense to the city, and that's something
10 we needed to cut back if at all possible because we
11 needed to use all the revenue we could to supply
12 services for the community.

13 Q. When you arrived there was nothing in
14 place to track these types of trends?

15 A. You know, I would say the city
16 Attorney's Office did that, and I don't quite recall
17 if they had that or not.

18 Q. Sir, in March of 2020 were you the
19 subject of an investigation ordered by Vallejo City
20 Council?

21 MS. KNIGHT: Objection, privacy.

22 Let's see. Yeah, privacy, and I think
23 -- I'm going to instruct the witness not to answer,
24 John, unless you've got a real good basis for
25 relating to this case.

1 MR. COYLE: Well, it's -- I'm -- I'm
2 probing the witness's credibility here.

3 My understanding is that the
4 investigation and the subsequent separation from
5 unethical decision-making practices, of fraud and
6 corrupt dealings, which both would trigger, you know,
7 cross-examination with some credibility and the
8 weight of his testimony.

9 MS. KNIGHT: Okay. I'm going to object
10 and instruct him not to answer on privacy grounds for
11 any investigations, anything sort of personnel
12 related to him, and that he's not a defendant not
13 relevant to this case, I will allow you to ask him if
14 he was asked to leave because of any sort of, you
15 know, findings of misconduct or because of the
16 results of an investigation. I think that's fair.

17 MR. COYLE: Okay. Well, and I don't
18 necessarily agree with that but we can address that
19 later.

20 MS. KNIGHT: Do you want to ask him
21 that question and get the answer?

22 MR. COYLE: Sure. Just give me one
23 sec.

24 MS. KNIGHT: Sure.

25 BY MR. COYLE:

1 Q. Sir, you gave deposition testimony in a
2 lawsuit brought by Slater Matzke, correct?

3 A. Correct.

4 Q. Do you remember testifying in that
5 deposition that the basis for your separation was
6 handling the badge bending investigation as well as
7 the Mare Island Development Project?

8 A. Can you repeat that question?

9 Q. Sure. Do you remember testifying,
10 giving a deposition in that case?

11 A. Yes.

12 Q. Okay. Do you remember giving testimony
13 that your separation from the city of Vallejo stemmed
14 from your handling of the badge bending investigation
15 as well as your involvement in the Mare Island
16 Development Project?

17 A. No.

18 Q. You don't recall that testimony?

19 A. No.

20 Q. Okay. All right. We'll circle back to
21 that.

22 Was your agreed separation from Vallejo
23 related at all to your handling of the badge bending
24 investigation and/or the Mare Island Development
25 Project?

1 A. I -- I left for medical reasons.

2 Q. Okay. Sir, as part of your separation
3 agreement you're paid by the city of Vallejo actually
4 to prep for testimony and then to testify in
5 proceedings involving the city of Vallejo, correct?

6 A. Correct.

7 Q. Okay. At a rate of \$128 per hour?

8 A. Correct.

9 Q. Okay. How many hours of preparation
10 for this deposition did you have?

11 A. About six or seven hours.

12 Q. During that preparation did you review
13 any documents or materials?

14 A. Yes.

15 Q. What did you review?

16 A. I reviewed the OIR report. I reviewed
17 the -- my deposition regarding the Captain Whitney
18 case. And I reviewed my -- the emergency order,
19 public safety emergency order that I present and was
20 approved by city council.

21 Q. What emergency order was that?

22 A. It was passed in October of 2020.

23 Q. Okay. And what did it deal with?

24 A. A range of issues. It was -- we were
25 -- we were calling for the emergency because we had

1 seen a -- what I think was a record number of
2 homicides throughout the city and record number of
3 crimes. Crime had spiked during that period of time.

4 We -- I felt the need for us to move
5 forward on some of the OIR recommendations that the
6 chief, the police department were working on and I
7 also felt that there was a fiscal constraint due to
8 what the pandemic had done to call for a public
9 safety emergency.

10 Q. And the OIR report you reviewed, that
11 was the one that the final draft was published, looks
12 like -- what did I do with it? I think May 2020?

13 A. Yeah, the report is dated May of 2020.

14 Q. Do you recall seeing drafts of that
15 report prior to the final draft being published?

16 MS. KNIGHT: I'm going to object on
17 attorney-client privilege there, John. The city
18 council did waive privilege on the final product.
19 But there -- the agreement with the OIR group was
20 with our office and attorney-client privilege
21 attached, and I don't believe any -- there was any
22 waiver on any of the drafts or any discussions
23 related to that.

24 MR. COYLE: Okay. Well, we'll make a
25 formal request for all the draft. I'll put that in

1 writing here and then we can sort out the privileged
2 nature of those drafts later.

3 MS. KNIGHT: Sounds good.

4 BY MR. COYLE:

5 Q. Did you have conversations with the
6 folks from OIR report about the tenor or the language
7 they were using in those drafts?

8 MS. KNIGHT: Same objection.
9 Attorney-client privilege. I'm instructing the
10 witness not to answer.

11 BY MR. COYLE:

12 Q. Do you remember testifying earlier that
13 your decision to leave the city was based on a
14 medical issue? I want to show you your deposition
15 transcript from the Matzke matter; do you see this
16 document?

17 A. Yes.

18 Q. Okay. It says: "Videotaped deposition
19 of Gregory Nyhoff, Wednesday, July 19th, 2023 in the
20 matter of Slater Matzke and a few others versus the
21 city of Vallejo?

22 A. Yes.

23 Q. Do you remember giving deposition
24 testimony in that matter on that date?

25 A. Yes.

1 Q. I'm going to skip ahead here to page
2 39, line 20. Question is: "You told me that there
3 was some media folks who were raising issues, I
4 guess, both publically and at city council meetings
5 that led in some way to your decision to leave the
6 city; is that fair?" And the answer was: "Yes."

7 Question follow-up was: "And do you --
8 what were the issues that they were raising? What
9 were they related to?" And you answered: "They were
10 relating to the police department in my oversight
11 there, badge -- badge bending, and there were a
12 couple challenges to the term agreement on Mare
13 Island."

14 Do you see that?

15 A. Yes.

16 Q. So is it fair to say that public
17 attention to your handling of badge bending as used
18 and Mare Island was also a motivating factor behind
19 your separation from the city?

20 MS. KNIGHT: Do we need to take a break
21 to delve more into the medical --

22 WITNESS: Yes.

23 MS. KNIGHT: Okay.

24 John, could we have a quick break?

25 MR. COYLE: Sure. Take five minutes?

1 MS. KNIGHT: Yeah, that should be more
2 than enough on this.

3 (Off the record.)

4 BY MR. COYLE:

5 Q. Your deposition transcript was whether
6 public controversy or public media regarding the
7 badge bending investigation and Mare Island issue
8 motivated, at least in part, your decision to leave
9 the city.

10 A. So, so -- so I left for medical
11 reasons. And I guess to connect the dots here the --
12 there was a group called Vessels of Vallejo that had
13 placed posters out, cartoon posters making me look
14 like the devil, and they placed it on my doorstep,
15 they placed it on my neighbor's doorstep, they placed
16 it on light posts, placed it on a couple buildings,
17 couple electrical boxes throughout the city, and it
18 had to do and it mentioned the firing of Captain
19 Whitney and the badge bending and the call to fire
20 me.

21 There were other media outlets. A
22 couple of them, Open Vallejos is one of them, that
23 would falsely produce information, which is what I am
24 getting to is the medical reason I left for was
25 partially the stress of those things.

1 Q. Understood.

2 MR. COYLE: Just for the clarity of the
3 record, Judy I'm going to mark this deposition
4 transcript as Nyhoff 1.

5 (Exhibit No. 1 was marked.)

6 BY MR. COYLE:

7 Q. All right, sir. I would like to go
8 back to your first year, we'll say January 2018 to
9 December 2018. During that timeframe did you
10 recognize any issues with the police department that
11 you felt needed to be addressed?

12 A. I think -- so that first year I spent
13 quite a bit of time looking at the risk management.
14 And I actually, you know, brought somebody in to give
15 some evaluation of -- of -- of some of that
16 information.

17 And, you know, a lot of claims had to do
18 with the police department. There had been a number
19 of payouts, and also the -- our insurance risk
20 coverage insurance we were having conversations with
21 them about significant increases in our premiums, in
22 our -- in our co-pays.

23 And so broadly, yes, I had concerns that
24 I felt required us to look into some type of
25 assessment regarding those liabilities.

1 I think the other concern, or something
2 I felt was necessary to improve on, was just our
3 community relations and try to rebuild some trust.
4 Although I found most people very supportive of the
5 police department, I still felt that there was need
6 for us to try to do more community outreach to build
7 trust back in the department.

8 Q. Based on your experience, did you think
9 there was an outsized number of excessive force-type
10 claims being made against the city?

11 A. Based on my experience, yes.

12 Q. Did you take any steps to look at the
13 Department's review of use of force for critical
14 incidents during that first year?

15 A. I did not. The -- although I'm over
16 the police department, the only real part I have is
17 the police chief, and then all internal
18 investigations, policies and procedures, those are
19 all under the authority of the police chief. So I
20 did not look at those, no.

21 Q. As a city manager did you have any role
22 in hiring, firing decisions -- well, scratch that.
23 Let me just say: Did you have any role in
24 termination or discipline decisions with the police
25 department?

1 A. Only in regards to the police chief.

2 Q. So there was testimony in -- in the
3 John Whitney matter by Slater Matzke, do you know who
4 Slater Matzke is?

5 A. Yes.

6 Q. Who is Mr. Matzke?

7 A. He was an employee -- a consulting
8 employee or consultant with the city for several
9 years and ultimately became an employee of the city
10 working mostly with economic development. Worked
11 with me under my office.

12 Q. He worked in your office?

13 A. Yes.

14 Q. When did he begin working full time in
15 your office?

16 A. I don't recollect specifically. It
17 would be -- I -- I think it's -- beginning of 2020 --
18 hold on. 20 -- 2021 or end of 2020.

19 Mr. Matzke testified in his deposition
20 in the Whitney matter that he told you that your
21 approval -- or I'm sorry, you told him, you, Mr.
22 Nyhoff, told Mr. Matzke that your approval was
23 required for personnel decisions affecting
24 high-ranking police officers. Is that limited just
25 to police chief or does that also apply to captains

1 and things of that sort?

2 A. Only the police chief.

3 Q. It appears to me, just from a general
4 perspective, your time between January 2018 and July
5 of 2021, there was some efforts to make reform within
6 the police department. There was the OIR report,
7 there was a number of other things, and there's some
8 of those recommendations or efforts related to
9 oversight and accountability of officers, including
10 related to excessive force and deadly shootings.
11 Would you agree with that?

12 A. Yes.

13 Q. We've heard testimony from other
14 individuals that oftentimes the Vallejo Police
15 Officers Association inhibited some of those efforts.
16 Would you agree with that?

17 A. May I ask just for a point of
18 clarification? You said "testimony". You don't mean
19 any, like, formal deposition, or anything like that,
20 you just mean general?

21 Q. Yeah. Well, we heard from Captain
22 Horton yesterday and he testified that generally
23 speaking that sometimes the VPOA would stand in the
24 way of some of the reforms they were trying to
25 implement. Would you agree with that?

1 A. I would say that I have by a number of
2 years working with labor organizations and labor
3 groups and I don't -- I -- I don't see them, they
4 weren't any different than what I'd say I experienced
5 in other cities. They -- they are always going to
6 take a look at whatever changes you want to make in
7 policies and procedures and question it.

8 So I would say not anything different.
9 Not anything that -- that a labor organization
10 wouldn't normally do or has normally done in my
11 experiences.

12 Q. Did you have any perception at all that
13 the VPOA had greater access to you and city council
14 or greater influence to you and city council than
15 other labor organizations have had in the past?

16 A. I would say they absolutely didn't have
17 anymore access to me than any other city I have been
18 in. It might have actually been less here.

19 City council members, I don't think it
20 was -- I don't think it was excessive. All the
21 cities, all my experiences I've had there's always
22 conversations between elected officials and the
23 leaders of the different labor organizations. So I
24 -- I felt it was quite normal, quite similar to what
25 I experienced in other places.

1 Q. Sir, do you know Michael Nichelini?

2 A. Yes.

3 Q. Okay. He was the ^ registered and I
4 believe still is Vallejo police officers president.

5 A. Yes.

6 Q. Do you remember when he was appointed
7 president?

8 A. I -- I do not recall specifically. But
9 I know when I first got here Matt Mustard was the
10 president of the association. So I -- I believe it
11 was maybe midway. Maybe 2019. I don't recall
12 specifically, but I worked with Matt Mustard. He was
13 the president when I first got here.

14 Q. And when Nichelini was originally
15 president of the VPOA, he was a lieutenant with the
16 police department?

17 A. During my tenure here, yes, he was a
18 lieutenant.

19 Q. And he has since been terminated?

20 A. That -- he was terminated, yes.

21 Q. What was your relationship like during
22 your tenure at Vallejo with Mr. Nichelini?

23 A. We had very, very few conversations.
24 So very minimal. Minimal.

25 Q. Do you know Mr. Nichelini's wife?

1 A. Yes.

2 Q. Who's that?

3 MS. KNIGHT: Michelle.

4 WITNESS: Yeah, I know. One second.

5 So Kate, I can hear the -- was that just the voice
6 coming through the wall? Sorry, I can hear voice so
7 I just wanted to make sure.

8 MS. KNIGHT: Yeah. Sorry, the walls
9 are a little thin.

10 WITNESS: Got it.

11 So Michelle Straub.

12 BY MR. COYLE:

13 Q. Michelle Straub also worked for the
14 city of Vallejo, correct?

15 A. Correct. She worked for my office.

16 Q. What was her role?

17 A. She was my administrative assistant.

18 Q. So your right-hand woman, so to speak?

19 A. So to speak, yes.

20 Q. Did Mr. Nichelini ever come into your
21 office and visit Ms. Straub?

22 A. Occasionally, yes.

23 Q. During that time period did you speak
24 with him at all?

25 A. A couple times, yes.

1 Q. Was he one of the few Vallejo officers
2 that had access to your office?

3 MS. KNIGHT: Objection, vague.
4 Ambiguous.

5 BY MR. COYLE:

6 Q. You can answer, sir.

7 A. The -- well, first of all, you know, I
8 hold value in, you know, being open to any employee
9 that, you know, comes up to my office wants to say hi
10 to me. He was the president of the labor group, and
11 so all the presidents of the labor group would have
12 -- well, I call it greater access, but very few times
13 did I ever meet with the presidents of that. So I --
14 I -- when you say that he had a greater ability to
15 come into my -- access to my office as the president,
16 I always welcomed them if they wanted to come in and
17 talk to me, and sometimes I would ask them to come
18 talk to me, but it was on rare occasions.

19 Q. Sir, at some point in time in 2020
20 Mr. Nichelini circulated an email from his work
21 account with a picture of the Vallejo badge with a
22 swastika on it; is that correct?

23 A. As to the timing I'm not sure, but
24 that's correct, I do recall that email.

25 Q. Did that act cause you any concern?

1 A. Yes.

2 Q. How -- in what way did it cause concern
3 to you?

4 A. Well, I -- you know, one of the things
5 that -- that was important to me is try to rebuild
6 trust, and so anything that would cause concern or
7 questions in any area of the community. And so that
8 swastika is not a symbol that -- that relates to
9 anything positive at all, in my opinion. And when I
10 saw that I was concerned that I would see that from
11 the police department and did have a conversation
12 with the chief, which he then in turn, my
13 recollection is he investigated it.

14 Q. Did, in your interactions with
15 Mr. Nichelini, did you find him to be a racist or
16 white supremacist?

17 A. No.

18 Q. Did the sharing of that image give you
19 concern that he might be a racist or white
20 supremacist?

21 A. No.

22 Q. Why not?

23 A. I had no personal interaction with him
24 to believe that he was that. My concern simply is
25 why would he use that emblem, and I wasn't aware of

1 its meaning or the use of it by the police department
2 in the past.

3 Q. Are you aware of it now its meaning or
4 the use of it by the police department in the past?

5 A. My recollection is that I was told that
6 it had to do with some -- some -- some time in the
7 history when they had utilized that emblem.

8 Q. Did you find the timing of
9 Mr. Nichelini circulating this image shortly after
10 the hiring of Chief Williams to be troubling at all?

11 A. No.

12 Q. How many black police chiefs has
13 Vallejo had prior to Mr. Williams?

14 A. I -- I had heard that he was the first
15 one, but I don't know that for sure.

16 Q. I want to talk to you a little bit
17 about badge bending. When was the first time you
18 were made aware that badge bending might be occurring
19 in the Vallejo Police Department?

20 A. My recollection is the first time I
21 heard of it was from Mayor Sampayan.

22 Q. And when was that?

23 A. I don't recall -- I don't recall the
24 timeframe.

25 Q. Do you remember sometime between

1 February and July of 2019 having a meeting with John
2 Whitney about badge bending?

3 A. I -- I -- I -- I believe that's the
4 accurate timeframe, but I did have a meeting in
5 regards to the interim police position with Chief
6 Whitney where he mentioned badge bending, yes.

7 Q. Okay. Was that before or after you had
8 heard about it from Mayor Sampayan?

9 A. My recollection is it was after --
10 after I had heard from Mayor Sampayan.

11 Q. When Mayor Sampayan first brought it to
12 your attention what did he say?

13 A. I said I would look into it and get
14 back to him.

15 Q. Well, I'm sorry. What did he say to
16 you?

17 A. My recollection was a short comment
18 that he said he had heard from someone that there was
19 badge bending within the police department.

20 Q. Did he give any sort of color about why
21 badges would be bent or why it might be a concern?

22 A. Not that I recall.

23 Q. Did he describe this as some type of
24 wide-spread practice? I'm trying to understand why
25 -- why a badge being bent could just be damaged, why

1 it garnered the mayor's attention and he felt it
2 important to raise it to your attention?

3 A. In my experience I have learned that
4 there have been departments throughout the country,
5 certainly in my area, that do certain things that may
6 represent something. And so I think him as a mayor
7 understood that, that that might symbolize something
8 in regards to this -- these police officers and it
9 would be important for us to look into that.

10 Q. Did he indicate at all to you that he
11 believed it was related to police shootings?

12 A. No.

13 Q. When you met with John Whitney and he
14 mentioned the badge bending to you, was that the
15 second time you had heard of it?

16 A. Yes.

17 Q. After your meeting with Mayor Sampayan,
18 did you take any steps to start any type of
19 investigation into the badge bending?

20 A. Yeah, so -- so maybe just to clarify
21 that-- so after -- so after I met with the mayor,
22 after he mentioned that to me, I went directly to
23 Chief Bidou, the police chief, and I asked him about
24 that. And he concurred and stated that, yes, that
25 that did happen but it was -- it had already been

1 taken care of it and it was sometime in the past.

2 Q. Did he indicate that there was an
3 investigation that had been done?

4 A. No.

5 Q. Did you ask him?

6 A. No.

7 Q. You weren't curious to find out what
8 the extent or breadth of this process was?

9 A. When he told me it had been taken care
10 of I made the assumption that whatever was necessary,
11 investigations, disciplinary action, whatever,
12 counseling, whatever may have needed to occur or
13 should have occurred.

14 Q. And we know now that nothing occurred
15 at that ^ , correct?

16 MS. KNIGHT: Objection, foundation.
17 Misstates -- misstates evidence. Calls for
18 speculation.

19 BY MR. COYLE:

20 Q. You can -- you can answer, sir.

21 A. What I would say is that it -- the --
22 the police chief told me it had been taken care of,
23 which I made the assumption then that it was done and
24 no longer occurring, and when it resurfaced later on
25 then, yes, obviously it had not been taken care of or

1 handled.

2 Q. As of the time that Chief Bidou told
3 you it had been handled there had been no formal
4 investigation, correct?

5 A. Could you ask that again. I'm sorry.

6 Q. When you had this first conversation
7 with Chief Bidou and he told you it had been taken
8 care of, there had been no formal investigation up to
9 that point, correct?

10 A. Not that I was aware of.

11 Q. Okay. Is it fair to say the first
12 formal investigation was the Giordano investigation
13 and report?

14 A. Again, I'm not sure what actually
15 happened prior to under Chief Bidou, but yes, that is
16 my understanding since I was here that the chief and
17 I pursued that investigation into the badge bending.

18 Q. When John Whitney raised the matter to
19 your attention again what did he tell you?

20 A. He told me that -- we were discussing
21 Chief Bidou was leaving, so I was just having a
22 general discussion with him about his -- whether he
23 would be interested in applying for the chief's job.
24 And so he was talking to me about a number of -- of
25 things that he thought -- he probably would do

1 differently, and he said there was badge bending that
2 had occurred and Chief Bidou -- he told Chief Bidou.
3 Chief Bidou asked him to go take a box and collect
4 them and I believe required the officers to repair
5 them and that was the extent of my recollection of
6 that conversation.

7 Q. Did you find -- in hearing that that
8 was Chief Bidou's instructions, did it satisfy you
9 that that was an appropriate response to this badge
10 bending?

11 A. I would say that what I thought was the
12 fact that immediately once they found out about these
13 badges that were bent it was sometime ago that they
14 collected them and made the officers pay for
15 straightening them out, and we didn't talk about what
16 type of investigation went into that.

17 And so, again, I won't go back to what
18 the chief told me. I made the assumption when he
19 said it had been handled and taken care of that
20 appropriate investigation and -- and -- and their
21 police department looking into it and ensuring that
22 it didn't continue had been done.

23 Q. So I guess what I'm confused about
24 here, first, he assured you the issue had been
25 handled and it had been handled in the past, and then

1 Mr. Whitney comes to you and says we have this thing
2 going on. The chief instructed me to collect all the
3 badges and get them repaired. When you hear that
4 from Mr. Whitney, does that trigger anything in your
5 mind to say that doesn't sound like a sufficient
6 response?

7 A. I work directly with the police chief,
8 and when he told me it had been handled my assumption
9 was that it was. And when he told me it had been in
10 done in the past it's not something that I thought
11 was actively being done anymore, it had been stopped.

12 Q. Okay. But you're the police chief's
13 direct report, correct?

14 A. That's correct.

15 Q. So you're his supervisor, correct?

16 A. Correct.

17 Q. So you just simply took him at his word
18 and decided to move on?

19 A. I thought the police chief had done the
20 appropriate investigation and review of the matter
21 and had ensured that it was completed and done and no
22 longer was occurring.

23 Q. But outside of the chief's statement to
24 you, you took no individual personal steps to assure
25 that that was the case?

1 MS. KNIGHT: Objection, asked and
2 answered. Go ahead.

3 WITNESS: I had no reason in my mind to
4 look into a case that had already been resolved and
5 dealt with by the chief.

6 BY MR. COYLE:

7 Q. Did Captain Horton ever bring badge
8 bending to your attention?

9 A. Not that I recall.

10 Q. What was your impression of Captain
11 Horton?

12 A. You know, I dealt with them so little,
13 either him or the -- either of the Captains. I know
14 that he had been on stress leave for some time, but
15 from time to time he would be the interim chief. I
16 had no -- I had no negative impressions of him based
17 on my little knowledge or little experience of
18 actually working with him.

19 Q. How about John Whitney, what was your
20 impression of Mr. Whitney?

21 A. Again, I had very little interaction
22 with him. Again, I had no negative impressions based
23 on my experience with him.

24 Q. Did you believe in Mr. Whitney's
25 actions in following up on the badge bending and

1 reporting on the misconduct was not in the best
2 interest of the city?

3 A. I -- I -- I -- I listened to all of his
4 comments and I welcome comments to improve the
5 department or concerns about the department as I
6 would from other in the department. So I had
7 absolutely no concerns about him raising those
8 issues.

9 Q. Did you ever tell Mr. Matzke that your
10 decision to bring on Chief Allio was motivated in
11 part by shutting off or dealing with John Whitney?

12 A. I'm sorry, can you repeat that?

13 Q. Did you ever tell Mr. Matzke that your
14 decision to bring on Chief Allio was motivated in
15 part to deal with or silence John Whitney?

16 A. I don't recall having a conversation
17 with Mr. Matzke about that.

18 Q. Well, was your decision to bring in
19 Chief Allio motivated in part by your desire to
20 silence the concerns of Mr. Whitney?

21 A. Absolutely not. And so the two
22 captains were at times Horton and Whitney, and I
23 wanted them both to have the opportunity if they
24 wanted to apply for the position to do so. But they
25 were also, based on what the chief had told me, they

1 had claims and counterclaims against each other.

2 And so having either one of them serve
3 as a police chief, both from the fact they were
4 appeared not to be getting along well; and secondly,
5 as I didn't want either one of them to have the --
6 shall we say the -- the position of chief that would
7 maybe give them a -- a step up in -- in any
8 application of candidacy for the chief themselves.

9 So the main motivating reason was is
10 they were appeared not be getting along, and I
11 couldn't afford to have the leadership of the police
12 department at odds at such a critical time.

13 Q. You said claims and counterclaims
14 against each other. I'm not sure I understand what
15 that means. Could you elaborate?

16 A. Just one of the -- what the chief had
17 told me there was some claims, and I don't remember
18 which one did it. One was in regard to someone was
19 lying on their time sheets one of them, and I can't
20 remember what the counterclaim was. But they were
21 making some internal claims against each with the
22 chief.

23 Q. Were those claims investigated by
24 internal affairs?

25 A. I don't know the answer to that.

1 Q. So under the chief are the Captains the
2 next highest ranking people in the Vallejo Police
3 Department?

4 A. Yes.

5 Q. Did you have any concern that two of
6 the four highest ranking individuals in the police
7 department were -- were openly bickering and accusing
8 each other of misconduct?

9 A. Yes, that's concerning.

10 Q. Did you take any steps to investigate
11 or address that issue?

12 A. Again, I would say that my role and my
13 authority has no oversight. I will tell you that I
14 did speak to the chief just that he needed to deal
15 with that situation. We needed those two to be
16 working together.

17 Q. Did it create any concern about the
18 chief's ability to adequately lead the department?

19 A. No. It did not give me concern that he
20 was unable to lead the department because I thought
21 that he was going to have -- he was going to be
22 dealing with that, and I believe that he did.

23 Q. Looking back now, the benefit of
24 hindsight, you know that Chief Bidou didn't
25 adequately address the badge bending issue and -- and

1 you have those bickering captains in the department,
2 do you think Chief Bidou was competent in leading the
3 Vallejo Police Department?

4 MS. KNIGHT: Objection, vague.
5 Ambiguous.

6 WITNESS: The -- the -- first of all,
7 I'll just address the badge bending. Because his
8 saying that that was dealt with to me, and me
9 trusting that, I found out after he had left that
10 that wasn't true, and in my mind that was -- that was
11 extremely concerning that that should have been done,
12 and especially because of the fact that I believed
13 him that he had taken care of that and done the
14 proper investigation.

15 So again, he had left at that point in
16 time, but not following up on that causes me concern
17 that that was a critically important issue to
18 resolve.

19 Um --

20 Q. Okay -- I'm sorry, go ahead.

21 A. And then the bickering between the two
22 captains it did, you know, it's -- it's -- it is
23 cause for concern in those individual things. But I
24 think the badge bending was unequivocally would cause
25 me to lose trust in him based on what he told me.

1 The arguing and bickering between captains and
2 lieutenants, you know, those are just a normal part
3 of operations. One thing Chief Bidou did have was a
4 lot of confidence from the community.

5 Q. So in retrospect, do you think Chief
6 Bidou was competently leading the department?

7 A. Yes.

8 Q. After your conversation with John
9 Whitney about badge bending, when was the next time
10 it was brought to your attention?

11 A. Well, I think that -- so I did, you
12 know, at least let Chief Bidou know that -- that
13 Captain Whitney had those concerns, shared that
14 conversation with him.

15 And then there was -- there had been --
16 there was no more conversation about the badge
17 bending. In my recollection it wasn't until one of
18 the officers stated in the media, I think it was
19 McMann, stated in the media that there -- that he had
20 been part of badge bending, or something to that
21 effect. So that was the next time I heard it, which
22 was months, many months later.

23 Q. Was that before or after Chief Allio
24 started with the department?

25 A. My recollection is Chief Williams was

1 here when that issue resurfaced.

2 Q. When Chief Allio joined the department,
3 did you and him have any conversations about badge
4 bending?

5 A. Not that I recall.

6 Q. Did he report to you that on his first
7 day of the job Captain Horton brought badge bending
8 to his attention?

9 A. Not that I recall.

10 Q. Would you expect a new police chief,
11 being informed of such a thing, to bring that to your
12 attention?

13 A. I think that what I would expect of the
14 new chief to do was -- was evaluate it in regards to
15 its, you know, what did he mean by that? Do some
16 type of investigation or have some kind of discussion
17 with the department and find out its credibility or
18 whether it had been something done in the past and it
19 had been taken care of, as I was told it was.

20 Q. In your estimation, was the badge
21 bending a celebration of the death of a human being?

22 A. No.

23 Q. Do you remember giving a town hall with
24 Chief Williams on October 1st of 2020?

25 A. I don't recall that specifically. Can

1 you tell me where it was maybe? We did go to a few
2 of those meetings.

3 Q. Sure. It was Friendship Missionary
4 Baptist Church.

5 A. Okay, yes.

6 Q. I want to play for you a video clip
7 from that.

8 A. Okay.

9 Q. And then circle back about that.

10 Well, before I do that what, in your
11 estimation, what was -- what was the purpose behind
12 badge bending?

13 MS. KNIGHT: Objection, speculation,
14 lack of foundation.

15 Go ahead.

16 WITNESS: Yeah, I -- I don't know what
17 -- what the purpose of that would be. I don't know.

18 BY MR. COYLE:

19 Q. Okay. All right. I'm going to play a
20 video for you. It's the recording of that town hall.

21 Let me know if you have any trouble
22 seeing or hearing the sound. Can you see that?

23 A. Yes.

24 Q. All right. So this is the town hall I
25 just mentioned and we're going to start in at 53:36

1 on the ticker, and I'm going to play some of the
2 introductory questions of discussion before you give
3 statements.

4 (Beginning of video.)

5 "Question: Let's move onto another
6 issue that's been talked about a lot, bent badges,
7 and we recognize that, again, the police officers
8 bill of rights doesn't allow you all to say certain
9 things. But this bent badges issue came about when?

10 "Answer: I ordered an official inquiry
11 into this badge bending when I was first notified
12 about it by a news source. The actual incident is
13 currently under investigation. It occurred prior to
14 me being sworn in. It could have -- so that's under
15 investigation. The facts need to be determined about
16 that.

17 But I will say this, it's despicable.
18 The celebrating of a killing of a human being, if
19 that is done under the power of authority or under,
20 you know, -- by -- by a police officer in our
21 department it's despicable, it will not be tolerated.
22 Any anyone who does that does not deserve to wear our
23 patch. They should not be allowed to wear our badge
24 and represent our community, so that will be
25 tolerated. That is currently under investigation.

1 Question: Okay. Ms. ^ , did you want
2 to add something to that?

3 Answer: I do certainly because it is a
4 very -- well, first of all, it is despicable, and
5 most despicable to me that there appears to be some
6 evidence that it has continued, even while I've been
7 here.

8 So for me it was mentioned to me
9 probably a year and a half ago that there was bent
10 badges, and so I -- I approached the police chief
11 because to me there's -- there's very few things that
12 are worse than that. You're celebrating the death of
13 a human being."

14 (Stopped video.)

15 BY MR. COYLE:

16 Q. Sir, were you able to hear that?

17 A. Yes.

18 Q. Can you hear yourself say there's --
19 that badge bending was celebrating the death a human
20 being?

21 A. Yes.

22 Q. Okay. So do you not no longer agree
23 with that statement?

24 A. I -- I would say at that point in time
25 there hadn't been an investigation given, and

1 listening to the chief's comments about that I echoed
2 his comments.

3 Q. So you're just speaking off the cuff
4 here? This is to placate the audience?

5 A. No. No.

6 Q. So why would you say you're celebrating
7 the death of a human being if that's not what you
8 meant?

9 A. Because it could be why they bent the
10 badges; and if so, it's despicable.

11 Q. Well, in this recording you certainly
12 don't equivocate about whether that was the reason.
13 It seems to me that, at least at this moment, you
14 believe that to be the reason.

15 MS. KNIGHT: Objection, misstates
16 evidence, argumentative.

17 WITNESS: In looking back at this, the
18 potential that that was the reason, and as the chief
19 stated right before I made these comments that's his
20 comments what he felt that it may or may was, or was
21 that I -- I would echo that; and I would say to this
22 day it is absolutely despicable if that was the
23 meaning behind them bending their badges.

24 Q. Have you read the subsequent ^ data
25 report on badge bending?

1 A. No.

2 Q. Sir, I want to talk to you about your
3 decision to bring in the OIR report to do a review of
4 the Vallejo Police Department. Can you walk me
5 through what concerns existed and what decisions were
6 had prior to reaching out to OIR to do that
7 investigation?

8 A. Okay. Is it -- I mean, it's a fairly
9 lengthy process of going through that.

10 I think first and foremost in -- in my
11 decision to -- to have an assessment done stemmed
12 most directly from the fact that the city had so many
13 claims against it and the liability was very high and
14 our premiums were being escalated, and I felt that we
15 needed to have an assessment done in regards to
16 policies procedures training, whatever was necessary,
17 done independently so that if we needed to do
18 training differently, hiring differently, if we
19 needed to change policies and update them, whatever
20 it was, we could have a plan to do that.

21 And I also felt that the public trust
22 was very low in the Vallejo Police Department, and
23 then having an independent source do an assessment,
24 do an analysis of the department and then making the
25 report public would be something very important,

1 again, to start building trust with the public. So
2 those two main reasons.

3 I guess the third reason subsequent to
4 that, or a little bit to that too was I felt that
5 there was staffing needs, and I felt the best way to
6 kind of take a look at the staffing needs might be to
7 perform some type of independent assessment that
8 would look at what the most critical needs were
9 within the department and so that we could support
10 those. And we -- we eventually went to the voters
11 with a ballot measure to try to build the department
12 to be able to manage it better than what it had been
13 done.

14 And so the -- those were the reasons.
15 The process was I, as the city manager, don't have
16 the authority to do that assessment or enter into an
17 agreement to do that assessment. That's the decision
18 of the chief and the city attorney's office. And so
19 there were quite a few conversations about its need,
20 what -- what exactly the parameters of it would be,
21 and so forth. And so that happened for several
22 months.

23 And then the city attorney's office,
24 working with me and the chief, they -- they put out
25 the proposal there for the OIR group. I had worked

1 with the OIR group back in the city of Oxnard. They
2 had done an analysis under the chief's office of an
3 officer-involved shooting and I thought their
4 analysis was very good. They presented to the
5 public. It was not only a good analysis but it was
6 also good so that the public could see our openness,
7 transparency in regards to some of these issues.

8 Q. You said you don't have the authority.
9 Is your authority constrained by law or charter or
10 what?

11 A. Charter municipal ordinances, yes.

12 Q. So the only people that had the
13 authority to hire an OIR group was the city
14 attorney's office?

15 MS. KNIGHT: Objection, misstates
16 testimony. Calls for a legal conclusion.

17 Go ahead.

18 WITNESS: That certainly was the way we
19 proceeded with it. I think that the police chief
20 could have asked for that assessment, but I'm sure
21 they would have consulted with the city attorney's
22 office before they did that.

23 BY MR. COYLE:

24 Q. Were there concerns that identifying
25 and rectifying the problems in the department could

1 exacerbate your potential liability exposure and
2 premiums?

3 MS. KNIGHT: Objection, vague and
4 ambiguous, and I also just caution the witness to
5 avoid any attorney-client conversations.

6 But you can answer outside of those.

7 WITNESS: I felt that in working with
8 the OIR group that they did an excellent job when I'd
9 worked with them in Oxnard in presenting the case and
10 information that would help me to make changes, and
11 help the police chief to make changes and give us an
12 overall idea of what area within the police
13 department did we need to improve.

14 BY MR. COYLE:

15 Q. Understood.

16 My question was whether you had any
17 concern that bringing in the OIR group to conduct
18 this investigation could lead to increased liability
19 exposure or higher insurance premiums?

20 A. I -- well, I did not -- I didn't have
21 that concern. Because I felt it was so important for
22 us to get this independent assessment, so I did not
23 have a concern.

24 Was there -- was there a chance that
25 that may occur? I would say yes, but I was not

1 concerned. I wanted the assessment, very supportive
2 of the assessment being done so that we could better
3 manage the department.

4 Q. So you -- when you were discussing the
5 motivations behind, you know, getting this report,
6 you mentioned liabilities were high and insurance
7 premiums were increasing. When you say liabilities
8 were high, does that mean in your assessment that
9 potential civil exposure from police cases was
10 raised?

11 MS. KNIGHT: Objection, vague,
12 ambiguous as to planning and --

13 If you understand you can answer.

14 WITNESS: I would say the number of
15 claims that were out there and appeared to be
16 continuing in my first few months there.

17 And then the concern obviously we were
18 paying out -- we had paid out significant levels to
19 where our insurance carrier was significantly raising
20 our premiums and deductibles.

21 BY MR. COYLE:

22 Q. Did your insurance carrier have any
23 conversations with you or reports to you saying that
24 you need to address this issue or -- or, you know,
25 your insurance rates are going to go up?

1 A. I didn't deal with them directly. They
2 were working for the city attorney's office.

3 My very limited conversation with them
4 was they were surprised and felt it necessary that we
5 get risk management department, or certainly
6 representatives, someone specific to deal with risk
7 management brought into the city.

8 Q. Do you remember what years your
9 premiums were increasing?

10 A. My recollection it was the very first
11 year I was here was when the conversations were being
12 had about insurance premium increases.

13 Q. Were you the one that recommended
14 retaining OIR group?

15 A. Yes.

16 Q. Did you find them to be
17 well-credentialed?

18 A. Yes.

19 Q. Did you find them to be thorough?

20 A. Yes.

21 Q. So would it be fair to say you thought
22 they were going to do a good job?

23 A. Yes.

24 Q. Do you believe they did a good job in
25 their reporting?

1 A. Yes.

2 MR. COYLE: We've been going for about
3 an hour and a half. Good segue time. Why don't we
4 take 15 -- why don't we just say we'll be back at
5 2:45 my time. So is that 11:45 your time? Let's
6 just say 11:45.

7 MS. KNIGHT: Sounds good.

8 BY MR. COYLE:

9 Q. Sir, I realize I skipped over something
10 that I think may be important as I was reviewing some
11 things on the break.

12 I want to talk to you about Chief
13 Bidou's time with the department shortly before he
14 resigned. Did the chief ever -- you mentioned he
15 discussed bickering between Whitney and Horton, did
16 he ever come to you and say that, you know, he needed
17 another captain?

18 A. My recollection is yes.

19 Q. You eventually hired Joseph Iacono?

20 A. Yes.

21 Q. During that conversation, did he
22 express he felt he couldn't trust Horton or Whitney?

23 A. I don't recall that specifically. I --
24 I would say he did have some concerns that he thought
25 having another captain would assist in his ability to

1 manage.

2 Q. Other than the OIR group, you also
3 retained a number of other individuals during the
4 time period to look at the police department and the
5 issues they were having. Do you know an individual,
6 Charles Sakia, S-A-K-I-A?

7 A. Yes.

8 Q. Can you tell me who Mr. Sakia was?

9 A. Sakia?

10 Q. I might have the spelling wrong in my
11 notes. I apologize.

12 A. He was a labor attorney. He was an
13 attorney, and my recollection is labor. I had
14 actually used him in a prior city with the city --
15 with the city of Oxnard.

16 Q. What was the purpose of bringing
17 Mr. Sakia in?

18 MS. KNIGHT: And I'm just going to
19 object to the extent that that calls for
20 attorney-client communications.

21 Greg, if you have him for any reason
22 other than in his capacity as an attorney you can
23 answer, but he may have just been -- he may have just
24 been brought on in a legal capacity.

25 WITNESS: My recollection is that he

1 was brought in to assist us with some of the laboring
2 negotiations in the labor agreement.

3 BY MR. COYLE:

4 Q. Was he brought in to discuss relations
5 at all of the police department?

6 A. Not that I recall.

7 Q. Sir, I want to show you again what we
8 marked as Exhibit 1. This is going to be page 47 of
9 that document. Can you see that there?

10 A. No.

11 Q. Probably can't right now but give me a
12 second. All right, there we go. Can you see it now?

13 A. Yes.

14 Q. Do you need me to zoom in at all?

15 A. No.

16 Q. Okay. So you're assessing Renne Sloan
17 Sakai, and you said it was a public management group,
18 and there was Mr. Bob Deis, D-E-I-S, he was a
19 consultant there?

20 A. Yes, Bob Deis.

21 Q. And you indicated that this group
22 involving Mr. Deis, Mr. Sakai was brought in to work
23 for the city of Vallejo?

24 A. Yes.

25 Q. And then you discussed: "What was he

1 brought in to do?" And your answer was: "One of the
2 specific items was he was brought in as a team that
3 we put together as we began the assessment of police
4 department; and as far as once we got the results of
5 that, he then became part of our team that we've put
6 together to work towards reform."

7 Did I read that correctly?

8 A. Yes.

9 Q. Okay. So this group involving Mr.
10 Sakai and Mr. Deis, D-E-I-S, were involved in the
11 assessment of the department?

12 A. So the -- the group, the public
13 management group was involved in my initial review.
14 They brought someone from the firm in and I worked
15 through Mr. Deis to give me an assessment of the risk
16 management. So that was the early on process. They
17 didn't have anything to do with the assessment
18 regarding, for instance, what the OIR report did. So
19 they did that on the risk management side, and then I
20 brought them in, Bob Deis directly, on to assist in
21 the -- to assist the chief in moving forward those
22 recommendations of OIR.

23 Q. Did you also retain someone named
24 Christopher Boucher, B-O-U-C-H-E-R?

25 A. I believe the city attorney's office

1 does, yes. Or did.

2 Q. You were involved in the hiring of Mr.
3 Boucher?

4 A. No.

5 Q. Do you know who Mr. Boucher was brought
6 in for?

7 MS. KNIGHT: Again, I'll just object to
8 the extent it's an attorney-client privilege matter.

9 If you have any knowledge outside of
10 that.

11 WITNESS: I don't have knowledge
12 specifically.

13 MR. COYLE: I'll be back here in just a
14 second.

15 BY MR. COYLE:

16 Q. In terms of your operation with the
17 police department, was that limited to the OIR group?

18 A. Yes.

19 Q. When was the decision made to reach out
20 to the California Department of Justice?

21 A. You know, I -- I -- I -- I -- I don't
22 -- I don't recall when it was. I -- I -- I could
23 estimate. I don't recall specifically when it was.

24 Q. Well, an estimation's fine.

25 A. It would have been probably late 2019.

1 Maybe -- probably late 2019. Well, let me think
2 again.

3 You know, that early in 2020, so.

4 Q. I want to show you another clip from
5 that town hall that we talked without earlier.

6 REPORTER: And John, during these clips
7 do you want me to take down anything on the video?

8 MR. COYLE: No. No. We'll just --
9 I'll mark the video as an attachment but will send
10 you the download file of the video.

11 MS. KNIGHT: John, if you could note
12 for the transcript, though, what part of the video
13 you are starting and stopping that would be helpful
14 for us.

15 MR. COYLE: Absolutely.

16 I'm starting here at 32 minutes and 33
17 seconds, and there was a discussion that predates
18 this or precedes this where Mr. Williams is talking
19 about his interactions with city council.

20 (Video Playing.)

21 BY MR. COYLE:

22 Q. Okay, sir, were you able to hear that?

23 MR. COYLE: I'm sorry. For the record,
24 I stopped at 34 minutes and 18 seconds.

25 BY MR. COYLE:

1 Q. I have some questions.

2 You mentioned in there that you talk
3 about the OIR report and some of the investigations
4 and the reasons for them and then these settlements
5 that we've been having, and you go on to say the red
6 flags to make reform mandatory. What settlement are
7 you referring to?

8 A. I think there's a -- there's a general,
9 you know, as the settlements would occur I would be
10 briefed on those.

11 I think one of them in particular was, I
12 think Foster that I just happened to remember was one
13 of the larger ones. But generally just the number of
14 settlements; in other words, we were paying out money
15 when it came to these claims.

16 Q. And -- and what did that -- what about
17 the fact that you were paying out money on these
18 claims indicate to you, if anything?

19 A. Well, it -- it indicates that something
20 has to change. Something has to change in the way
21 we're doing business there.

22 Not -- you know, sometimes you can get a
23 snowball effect that once -- once something happens
24 the next one ends up claiming the same thing and
25 you're going to pay out again, and so it starts

1 snowballing. We needed to stop that and make sure we
2 were putting proper practices and procedure training,
3 whatever was necessary, to stop the need to pay all
4 those claims; in other words, you wanted to be
5 absolutely certain, or as certain as you could be
6 dealing with people who are employees of yours, that
7 you did everything you could to train them adequately
8 and put updated policies in place so that those claim
9 numbers would go down and those settlements would go
10 down.

11 Q. So would it be fair to say that it was
12 indicating to you that the way you were doing things
13 before wasn't good enough?

14 MS. KNIGHT: Objection, vague and
15 ambiguous. Misstates testimony.

16 WITNESS: It -- I guess what -- what I
17 say is it raised a flag as to me to question why.
18 Why is it that these are so high?

19 So it appears something is causing the
20 city to have all these claims and settlements and,
21 you know, I'm going to be very careful not to think
22 that I know the answers to where those lie, and so
23 it's why I bring in the OIR group, or any assessment
24 group to look at that.

25 And I think it's important to know,

1 too, that not only did we do the assessment on the
2 police department because of these liability claims,
3 we did one with the fire department and the public
4 works department. We initiated all three of those at
5 the same time.

6 Q. So fair to say that you didn't think
7 business as usual could carry forward?

8 A. Absolutely not.

9 Q. There had to be some type of change to
10 mitigate these issues?

11 A. Yes.

12 MR. COYLE: I'm trying pull up a
13 document.

14 (Exhibit No. 2 was marked.)

15 MR. COYLE: Let me go back to the DOJ
16 issue.

17 You say late '19 early 2020 was when
18 the conversation with the DOJ began.

19 A. I believe that's correct. I'm not
20 absolutely positive on the timeline there.

21 Q. That was when the OIR report was still
22 pending, correct?

23 A. My recollection is yes, that's correct.

24 Q. Had you seen drafts of the OIR report
25 before you contacted the Department of Justice?

1 A. I don't believe so.

2 Q. Who was in charge that led you to reach
3 out to the Department of Justice?

4 MS. KNIGHT: Objection, lacks
5 foundation.

6 Go ahead.

7 WITNESS: The initial contact was Mayor
8 Sampayan and myself.

9 BY MR. COYLE:

10 Q. Can you explain to me what the sort of
11 genesis of that -- of that conversation was? How did
12 the DOJ become an option for you?

13 A. I -- I think that, you know, when you
14 have a situation where you certainly don't -- well, I
15 felt that the public trust was very low for the
16 police department, and so you're going to look for
17 independent verifications or assessments or
18 evaluations so that you can say, look, we had the OIR
19 group take a look at this, the Department of Justice
20 look at this.

21 But in this particular case the outreach
22 was to talk to them about funding, additional funding
23 that might be available for the city to hire more
24 police officers; and the conversation we talked to a
25 little bit about having them come in and maybe take a

1 look at our policies, were they the most updated?
2 And procedures.

3 So those were the two main issues. We
4 talked to them about funding and coming in and taking
5 a look at policies and procedures.

6 Q. So is it simply you and -- and Mayor
7 Sampayan wanted a second set of eyes on top of the
8 OIR group?

9 A. I think -- I mean, there was obviously
10 a number of people calling out for that for us to
11 have the Department of Justice come in. We weren't
12 -- I wasn't -- we weren't looking for some type of
13 very specific thing other than funding was our main
14 reason to call them to see if there was a way for
15 funding. And then, yeah we added to it take a look
16 at policies and procedures, because we wanted to work
17 with them.

18 Q. Was that at your suggestion or their
19 suggestion?

20 A. That was at our suggestion.

21 Q. And how did that process begin, did you
22 send them a letter or was it a phone call?

23 A. We had both of those. So we had a
24 phone call with them and we sent a letter. I'm not
25 -- I don't recall which one came first. I believe it

1 was the phone call and then the letter.

2 Q. Prior to reaching out to the DOJ, had
3 you made the city council at large aware that you
4 would be reaching out to the DOJ?

5 MS. KNIGHT: Objection, vague.
6 Ambiguous.

7 WITNESS: No.

8 BY MR. COYLE:

9 Q. Did you let the city attorney's office
10 know?

11 MS. KNIGHT: Objection,
12 attorney-client. Instruct the witness not to answer.

13 MR. COYLE: I'm not asking what he said
14 or what the communications was, I'm simply asking
15 whether he notified the city attorney's office. I
16 don't think that's privileged.

17 MS. KNIGHT: Well, you're asking about
18 the substance of that communication. Did you tell
19 them that this was going to happen or not? So.

20 MR. COYLE: Okay, I'll rephrase.

21 MS. KNIGHT: It just -- yeah.

22 MR. COYLE: I'll rephrase it.

23 BY MR. COYLE:

24 Q. Was the city attorney's office aware of
25 your intention to reach out to the district attorney

1 -- or I'm sorry -- to the Department of Justice?

2 MS. KNIGHT: Objection, calls for
3 speculation.

4 WITNESS: I don't believe they were.

5 BY MR. COYLE:

6 Q. Other than yourself and Mayor Sampayan,
7 who was aware of your intention to reach out to the
8 DOJ?

9 A. I'm not aware of anybody.

10 Q. Are you aware that recently the
11 Department of Justice has announced their intention
12 to enter into a stipulated judgment with the city
13 regarding police issues?

14 A. I had heard that.

15 Q. I want to show you the press release
16 from Attorney General Bonta.

17 MR. COYLE: Mark this as an Exhibit 3.

18 (Exhibit No. 3 was marked.)

19 BY MR. COYLE:

20 Q. Can you see my screen, sir?

21 A. Yes.

22 Q. And this came in about 12 days ago
23 related to the judgement that's pending with Vallejo.

24 I want to ask your opinion on a couple
25 of things that were included in here.

1 It says when the MOU expired, and that's
2 obviously the MOU that came down as a result of
3 (fading).

4 REPORTER: Wait, hold on. You
5 completely faded out, John.

6 MR. COYLE: All right. Let me back up
7 a little bit.

8 BY MR. COYLE:

9 Q. After you invited the DOJ to come in,
10 the city and the DOJ entered into a memorandum of
11 understanding on MOU, correct?

12 A. I think that -- so for me to provide
13 clarity.

14 So the first conversation we had with
15 them was to come in and look at policies and
16 procedures in an informal basis and also what types
17 of funding might be available to us.

18 And so the second -- and it had been --
19 and it was some time, it was months that we didn't
20 hear anything, and basically said we can't fund you
21 but we can work with the chief to maybe help find you
22 some other sources of funding, and so the
23 conversation ended there. And they ended up
24 contacting us, which that began the conversation
25 about the agreement we had with them.

1 Q. Okay. So eventually an MOU is agreed
2 to?

3 A. Correct.

4 Q. And then as part of that MOU, the DOJ
5 continues to review the police department's systems
6 and practices, correct?

7 A. Correct.

8 Q. Okay. In a press release the attorney
9 general's office says: "During the review of the
10 systems and practices under the MOU, DOJ concluded
11 that VPD failed to uniformly and adequately enforce
12 the law based in part because of defective or
13 inadequate policies, practices, or procedures."

14 In your opinion, do you agree with that?

15 MS. KNIGHT: Objection, calls for
16 speculation. Foundation.

17 WITNESS: I -- I -- I do not know
18 whether that's accurate or not.

19 BY MR. COYLE:

20 Q. Well, during your time at the city of
21 Vallejo, do you believe that the VPD failed to
22 uniformly and adequately enforce the law based in
23 part because of defective policies, practices, or
24 procedures?

25 MS. KNIGHT: Same objections.

1 WITNESS: I would say to you that I was
2 not aware that they were -- failed to enforce the law
3 as this letter states.

4 I would say that I had a number of
5 conversations with the DOJ who was working with us,
6 and they were reviewing our policies and procedures,
7 which I thought was a good thing for the city to have
8 and have their input, and at the end of the day to be
9 able to adopt policies that they would support and we
10 could use them as backing for our reform.

11 BY MR. COYLE:

12 Q. It goes on to say: "Additionally,
13 under the agreement --" and this is the -- the new
14 stipulated judgment agreement, I -- I believe --
15 "the VPD will implement additional recommendations
16 including to address unreasonable force by holding
17 officers and supervisors accountable for not
18 identifying, adequately investigating, or addressing
19 force as unreasonable or otherwise contrary to VPD
20 policy. A ^ nepharious use of force that may violate
21 law, or VPD's use-of-force policy so their
22 professional standards division, internal affairs,
23 for further investigation and review."

24 During your time at Vallejo, do you
25 believe that there was a failure in the department to

1 address unreasonable force by holding supervisors and
2 officers accountable?

3 A. You know, I would refer to the --
4 because again, I have no -- I have no authority to be
5 engaged into the policymaking or decisions in the law
6 enforcement side.

7 But certainly with OIR, I think what we
8 learned was there was some recommendations certainly
9 that there were some good things that we were doing
10 and there were some things that we should be doing
11 better, and there was just a number of areas.

12 So these specific words I would say what
13 I do believe it was, I believe that the OIR report
14 was very good and I thought it reflected what we
15 would see there.

16 So I think, you know, they did find some
17 -- some gaps in some of the supervision --
18 supervisory process and review processes. They did
19 find some gaps and listed those and they listed the
20 ways to improve that.

21 Again, I am not -- I'm not trained
22 within actual policies and procedures of police
23 operations and use of force and all of those. I'm
24 aware of them, but I'm not trained in them to make an
25 expert comment on that.

1 Q. Okay. So if I'm understanding your
2 role in supervising the -- the police department, the
3 police department was under your authority, correct?

4 A. By charter I have -- I -- I am over the
5 police department, yes.

6 Q. Okay. So you're not trained or capable
7 of looking at the policies or practices of the
8 department; fair to say?

9 A. But understanding it's a quasi -- quasi
10 military-type of organization, and so it's different
11 than a public works department. So, yes, I would
12 agree with your statement.

13 Q. Okay. So your oversight is really
14 identifying potential problems and trends and then
15 finding solutions to fix them; is that fair?

16 MS. KNIGHT: Objection, vague and
17 ambiguous.

18 WITNESS: You know, my responsibilities
19 are to ultimately make sure that the police
20 department and the police chief serve the community
21 as a good police department and one that uses the
22 most updated policy procedures, all of the above.

23 So I do feel the responsibility, which
24 is why I pursued that assessment. Even having a
25 conversation with the Department of Justice that

1 there was -- there were gaps, whether they were
2 created by budget shortfalls or policy shortfalls, or
3 whatever it would have been, which is why we asked
4 for that assessment. We needed to address it,
5 period.

6 Q. So we talked earlier you identified
7 these trends; increase in settlements, increase in
8 claims, increase in insurance premiums, correct?

9 A. Yes.

10 Q. And when you identified those trends
11 your idea for solving it was to retain the OIR group
12 and then ask the DOJ to investigate, correct?

13 A. Yes. And to bring on new employees to
14 be -- to create the risk management department here.

15 Q. Sir, were you involved at all in the
16 retention of Cold Pro Media?

17 A. I'm sorry, that last part broke up.
18 Can you repeat that?

19 Q. Were you involved at all in the
20 retention of Cold Pro Media?

21 A. I don't believe so.

22 Q. Do you know who retained Cold Pro
23 Media?

24 A. It's been a while, so my memory is not
25 -- I don't recollect who they were, so no.

1 Q. When city council found out you
2 requested DOJ to get involved was there push back
3 from council members?

4 MS. KNIGHT: I'll just object and
5 caution the witness not to reveal any communication
6 subject to delivery process privilege.

7 So to the extent there was a closed
8 session or something about that those communications
9 are not available. If you want to talk about what
10 they told you individually in your meetings, no
11 problem.

12 WITNESS: There was some concern.

13 BY MR. COYLE:

14 Q. What was the concern?

15 A. That the mayor and I had not
16 communicated with the city attorney first.

17 Q. Did they want to explain to you why
18 that was a concern?

19 A. Simply because the city attorney is the
20 attorney and the attorney general is an attorney.

21 Q. Why was Chief Allio hired as an interim
22 chief?

23 A. Well, so simply put, I did not think
24 that there was a -- a -- I thought it was really
25 important to not have a break in having a chief

1 there, and as we discussed earlier between the two
2 assistant -- or the deputy -- I'm sorry, the
3 captains, there was some -- some friction going on
4 there; and secondly, that I didn't want to place
5 either of them in a chief's position in an interim
6 basis which may unfairly elevate one or the other
7 into perhaps being selected as the chief.

8 Q. There was never the idea in your mind
9 of hiring Chief Allio on a permanent basis?

10 A. Absolutely not.

11 Q. Why not?

12 A. Because he had retired.

13 Q. Oh, so he made it clear to you that he
14 wasn't interested in becoming permanent chief?

15 A. Correct.

16 Q. Okay. During your time with the city,
17 in your conversations with any of the chiefs or with
18 city council members, did anyone express to you --
19 express to you -- wow, I'm struggling today --
20 express to you any concerns that there were police
21 gangs or subgroups of bad officers within the
22 department?

23 A. No.

24 Q. Would you be surprised by the testimony
25 of Slater Matzke that there were regular

1 conversations amongst yourself and city council
2 members about the potential for subgroups and gangs
3 within the department?

4 A. Can you rephrase the -- I'm sorry, can
5 you ask that question again?

6 Q. Sure.

7 I want to get your reaction to testimony
8 from Slater Matzke. He testified that there were --
9 there was commonly conversations amongst city council
10 members with you about police gangs and subgroups
11 within the department. Are you surprised by that
12 testimony?

13 A. I'm shocked by that testimony. I've
14 never had any recollection of that, any of those
15 considerations about gangs or subgroups.

16 Q. Okay. Sir, give me about five minutes
17 to go through my notes and make sure I've covered
18 everything and we might be done. Well, subject to
19 anymore questions. Just give me a couple minutes
20 here and I'll be right back with you, all right?

21 (Off the record.)

22 BY MR. COYLE:

23 Q. We just talked about police gangs and
24 groups and I limited that to yourself and city
25 council. Did Mayor Sampayan ever have any

1 conversations with you about his suspicion about
2 police gangs or subgroups?

3 A. Not that I recall, no.

4 Q. Do you know who Greg Taylor is? He
5 worked in IT.

6 A. Yes.

7 Q. Do you recall anyone pressuring him to
8 edit footage and change frame speed, or anything like
9 that, before being released to the public?

10 A. I -- I -- I don't recall that. I don't
11 recall that.

12 Q. Did you have any conversation with
13 Mr. Taylor about his editing of police videos?

14 A. You know, that's years ago now. I
15 think if I could maybe just clarify that.

16 Q. Okay.

17 A. So when you talk about editing the
18 police videos, so along with the videos themselves
19 that are on the body-worn cameras, you know, there
20 are slides and what order you put them in and then
21 there's sometimes there's dialogue that comes up.
22 And so editing slides that -- that -- that showed the
23 videos of the body-worn cameras, we did have
24 conversations about editing those slides and what we
25 were saying about them. But not -- I have no

1 recollection of ever saying we should edit the
2 footage itself.

3 Q. When you say "the slides," you mean the
4 PowerPoint presentations that were used to release to
5 the public?

6 A. Yes.

7 Q. And what type of conversation did you
8 have about editing those?

9 A. You know, mostly -- mostly for me had
10 to do to with, you know, what's the public
11 perception? Are we -- do we need to say something
12 more about this particular incident so that the
13 public better understands what is actually happening
14 here? Mostly that was it. Or the order, or should
15 we say something? Should we let the video speak for
16 itself? It's just more presentation- wise when
17 you're communicating with the public.

18 Q. So your primary concern was the
19 public's reaction to what was being presented?

20 A. Yes. Both, you know, from us saying
21 more than what we needed to say perhaps, or in my
22 particular opinion, the release of the tapes were
23 mostly to speak for themselves and to -- and so we
24 would want to be able to be transparent and educated.
25 It wasn't any particular desire for them to believe

1 something or not believe something. The tapes were
2 being released so that people could see what actually
3 happened, and to the best of our ability explain the
4 situation.

5 MR. COYLE: I don't have any further
6 questions, sir. Ms. Knight may and Mr. Graham may.

7 MS. KNIGHT: I do not have any
8 questions.

9 As with the prior depositions we'll
10 reserve the right to mark sections of these
11 depositions confidential under the protective order.

12 Jacob, do you have anything?

13 MR. GRAHAM: No, none from me.

14 MR. COYLE: Thanks for your time today,
15 sir.

16 WITNESS: Thank you, Mr. Coyle.

17 REPORTER: And John, would you like the
18 same order as yesterday?

19 MR. COYLE: Yes, please.

20 REPORTER: And Katelyn, same order for
21 you as well?

22 MS. KNIGHT: Yes, please.

23 REPORTER: Okay.

24 I'll send you rough drafts later on
25 today and you will get the final transcripts in 10

1 business days.

2 MR. COYLE: Sounds good.

3 MS. KNIGHT: Thank you.

4 (The deposition of Greg Nyhoff was
5 concluded at 12:44 p.m.)
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1 STATE OF WASHINGTON)

2) SS.

3 COUNTY OF KING)

4
5 I, the undersigned, declare under penalty of
6 perjury that I have read the foregoing transcript,
7 and I have made any corrections, additions, or
8 deletions, that I was desirous of making; that the
9 foregoing is a true and correct transcript of my
10 testimony contained therein.

11
12 EXECUTED this _____ day of _____
13 2023 at _____, _____.

14
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16 _____
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18 GREG NYHOFF
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C E R T I F I C A T E

STATE OF WASHINGTON)

)SS.

COUNTY OF KING)

I, Judith A. Robinson, Certified Court Reporter and an officer of the Court under my commission as a Notary Public, in and for the State of Washington, do hereby certify that the foregoing deposition was transcribed under my direction; that the transcript of the deposition is a full, true and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of any of the parties to the action or any attorney or Counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 4th day of November, 2023.

Judith A. Robinson, Notary Public
in and for the State of Washington
residing at Seattle.

My Commission expires November 4,
2024.

CCR License #2171

[& - additional]

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